

REMARKS

Claims 1, 5, 15, 22 and 36-50 are pending in the present application. Claims 1, 5, 15, and 22 are amended.

Claim Rejections – 35 U.S.C. §112, First Paragraph

Claims 1, 5, 15 and 22 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that the claims contain subject matter which is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

The Office Action on page 3 alleges that there is no support in the specification for the term “a computer readable recording medium.” The Applicant respectfully traverses this rejection. The specification in many places refers to an optical disc such as a Blu-Ray disc rewritable (BD-RW). See, for example, paragraphs [0004] and [0035] of the published patent application for the present application.

Furthermore, FIG. 7 illustrates a schematic diagram of an embodiment of an optical disc recording and reproducing apparatus which in some embodiments may be a computer reading an optical disc. One skilled in the art would understand the disc identified by reference character 1 in FIG. 7 to be a computer readable recording medium. See also paragraph [0050] through paragraph [0053] of the patent application publication for the present application. Furthermore, the term recording medium is found in the as filed claims which are part of the specification.

For at least these reasons, the Applicant respectfully asserts that the term “a computer readable recording medium” is supported by the specification. However, to forward prosecution, the Applicant amends claim 1 to include the phrase “a computer readable storage medium.” In view of the arguments set forth above the Applicant

respectfully requests that the rejections under 35 U.S.C. §112 of claims 1, 5, 15, and 22 be removed.

Claim Rejections – 35 U.S.C. §101

Claims 1, 5, 15 and 22 are rejected under 35 U.S.C. §101 because the claims are allegedly directed to non-statutory subject matter. The Applicant respectfully traverses these rejections.

The Applicant reasserts its arguments set forth with respect to 35 U.S.C. §101 in the previous response filed May 29, 2008. However, to forward prosecution of the application, the Applicant has amended claim 1 to recite “a computer readable storage medium having a data structure for managing reproduction of video data recorded on the medium when read by a computer having a microprocessor.” The added language emphasizes that the use of the program on the medium permits the function of the material to be realized and therefore be statutory patentable material. See MPEP §2106.01.

Support for the phrase “when read by a computer having a microprocessor” can be found at least in FIG. 7 and the corresponding specification. In view of the comments made above, the Applicant respectfully requests that the rejections under 35 U.S.C. §101 be removed.

Claim Rejections – 35 U.S.C. §103

Claims 1, 5, 15, 22 and 36-50 are rejected under 35 U.S.C. §103(a) as being unpatentable over Takao (U.S. Patent No. 7,000,246) in view of Kikuchi et al. (U.S. Patent No. 5,870,523) and further in view of Shimoji et al. (U.S. Patent Application Publication No. 2004/0,088,739 A1). The Applicant respectfully traverses this rejection.

According to the new Examination Guidelines for Determining Obviousness under 35 U.S.C. § 103 in view of the Supreme Court decision of *KSR International, Co. v. Teleflex, Inc.* it is stated that the proper analysis for a determination of obviousness is whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts. The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reasons why the claimed invention would have been obvious. An Office Action must explain why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. See 72 Fed. Reg. 57526, 57528-529 (Oct. 10, 2007).

The Applicant asserts that neither Takao, nor Kikuchi nor Shimoji, either separately or in combination, teach or suggest all of the limitations set forth in the claims, nor has there been a clear articulation made of why the differences between the prior art and the claims would have been obvious to one of ordinary skill in the art. For example, with respect to independent claim 1, the Office Action on page 6 admits that Takao and Kikuchi fail to teach “wherein the plurality of real-time navigation packets comprises a real-time navigation table, the real-time navigation table including a real-time navigation data, and each real-time navigation packet has a same packet identified code that is different from that of each of said plurality of video packets.”

In an attempt to cure these insufficiencies the Office Action cites Shimoji. The Applicant respectfully asserts that Shimoji does not cure the insufficiencies of Takao and Kikuchi identified by the Examiner. For example, nowhere in Shimoji is there a plurality of real-time navigation packets comprising a real-time navigation table, the real-time navigation table including real-time navigation data.

Rather, at best, the Examiner has identified in Shimoji a plurality of navigation tables. See, for example, FIG. 28A identified at 7405 and described in paragraph

[0336]. The three tables shown in FIG. 28A identified by 7405 are not shown to be comprised of a plurality of real-time navigation packets. Neither has the Examiner identified the real-time navigation data and plurality of real-time playback information found in the real-time navigation table as recited in claim 1.

The Applicant recognizes the argument set forth on page 6 of the Office Action where the data stream 7405 as shown in FIG. 28A and described in paragraph [0336] is alleged to be the real-time navigation table of claim 1 and the navigation information tables of Shimoji are said to be the navigation packets of claim 1.

However, the Applicant disagrees with this analysis. There has been no discussion of why Shimoji's data stream 7405 is a navigation table and Shimoji's navigation table should not be the navigation table of claim 1 but should rather be a data packet of claim 1. Further, even if the data stream 7405 of Shimoji was the navigation table of claim 1 and the navigation information tables of Shimoji did not correspond to the navigation table of claim 1 but rather corresponded to the navigation packets of claim 1 as asserted on page 6 of the Office Action, Shimoji would still not cure the insufficiencies of Takao and Kikuchi. The data stream 7405 of Shimoji (which is being considered to be the navigation table in the Office Action) appears to be comprised only of the navigation information tables (which are being considered to be the navigation packets of claim 1 in the Office Action) and does not include real-time navigation data including a plurality of real-time playback information as recited in claim 1. Thus, Shimoji does not cure all of the insufficiencies of Takao and Kikuchi. Therefore, neither Takao, Kikuchi, nor Shimoji taken either separately or in combination, teach, suggest or otherwise render obvious all of the limitations set forth in claim 1.

The Applicant notes that the other independent claims, claims 36, 37, 38, 39, and 45 recite language similar to that discussed above with respect to claim 1. The

Applicant asserts that the combination of Takao, Kikuchi and Shimoji do not teach, suggest, or otherwise render obvious all of the limitations set forth in claims 36, 37, 38, 39 and 45 for at least the same reasons or similar reasons as set forth with respect to claim 1. The remaining claims, claims 5, 15, 22, 40-44, and 46-50 are dependent ultimately upon one of claims 36, 37, 38, 39, and 45. For at least these reasons, the Applicant respectfully asserts that the rejections of claims 1, 5, 15, 22, 36-50 be removed.

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CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1, 5, 15, 22 and 36-50 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. §1.17; particularly, extension of time fees.

Respectfully submitted,

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